

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

BETTIE BIDDLE

PLAINTIFF(S)

VERSUS

CIVIL ACTION NO: 1:10CV189-SA-JAD

NCO FINANCIAL SYSTEMS, INC.

DEFENDANT(S)

**CORRECTED RULE 16 INITIAL ORDER**

The above captioned cause is set for a **TELEPHONIC CASE MANAGEMENT CONFERENCE (CMC)** on March 9, 2011 at 1:30 P.M. before:

Magistrate Judge Jerry A. Davis  
P. O. Box 726  
Aberdeen, Mississippi 39730  
Telephone: (662) 369-2138

**UNLESS OTHERWISE AGREED, IT SHALL BE THE RESPONSIBILITY OF COUNSEL FOR THE PLAINTIFF TO SET UP THE CONFERENCE CALL AT THE SCHEDULED TIME. THE MAGISTRATE JUDGE MAY REQUIRE COUNSEL AND THE PARTIES TO ATTEND THE CMC.**

**FED. R. CIV. P. 26(F) ATTORNEY CONFERENCE**

No later than twenty-one days before the CMC, counsel must confer in person or telephonically and be prepared to report to the court:

1. The principal factual and legal issues in dispute;
2. The principal evidentiary basis for claims and defenses;
3. The differentiated case management case track, days required for trial, and whether the case should be considered for Alternative Dispute Resolution (ADR);
4. Any motions whose early resolution would have significant impact on the scope of discovery or other aspects of the litigation;
6. What additional discovery is required beyond the voluntary disclosures and initial depositions of the parties, with designated time limitations;

7. Each of the eleven discrete matters related to electronically stored information specified in L.U.Civ.R. 26(e)(2)(B)
8. Whether all parties consent to jurisdiction by a magistrate judge;
9. The appropriate time for a L.U.Civ.R. 16(g) settlement conference;
10. Both settlement prospects and the costs of going through litigation and the appeal process, which counsel must explore fully with each other and their respective clients and represent to the court that they have done
- 11.. The contents of a proposed case management order. The court will determine all deadlines at the case management conference itself.

**PROPOSED CASE MANAGEMENT ORDER**  
**CONFIDENTIAL SETTLEMENT MEMORANDA**

Counsel must submit a proposed case management order **by e-mail (NO FAXES)** to the magistrate judge no later than fourteen days prior to the case management conference. At the same time counsel must also submit a memorandum (3-page maximum) with a brief explanation of the case and a candid appraisal of the parties' respective positions, including possible settlement figures and a good faith estimate of the expense of carrying the litigation through trial and the appellate process, if not settled. Counsel must have discussed, and will represent to the court that they have in fact discussed, these costs with their respective clients and must be prepared to candidly discuss them with the court. These memoranda are **not** to be exchanged, will be viewed only by the court, will not become a part of the record and will be destroyed upon the resolution of the case.

**CASE MANAGEMENT PLAN**

At the Case Management Conference, the court and the parties will:

1. Identify the principal factual and legal issues in dispute;
2. Identify the alternative dispute resolution procedure which counsel intend to use, or report specifically why no such procedure would assist in the resolution of the case;
3. Indicate whether all parties consent to jurisdiction by a magistrate judge;
4. Review the parties' compliance with their disclosure obligations and consider whether to order additional disclosures;

5. Determine whether there is discoverable ESI and, if so, the means by which it will be obtained and produced;
6. Determine whether early filing of any motions might significantly affect the scope of discovery or other aspects of the litigation, and provide for the staged resolution, or bifurcation of issues for trial consistent with 42(b) F.R.Civ.P.;
7. Determine the plan for at least the first stage of discovery; impose limitations on each discovery tool, time periods and other appropriate matters;
8. Determine the date for a settlement conference or mediation;
9. Set appropriate deadlines for completion of discovery and filing motions and dates for the final pretrial conference and trial.

### **CASE MANAGEMENT ORDER**

A Case Management Order will be entered by the court within ten days of the conference. Counsel must use the Case Management Order Form on the court web site at [www.msnd.uscourts.gov](http://www.msnd.uscourts.gov) as Form No. 1 in the revised Uniform Local Civil Rules, effective December 1, 2009 in their discussions and preparation for the CMC.

/s/ Jerry A. Davis  
UNITED STATES MAGISTRATE JUDGE

Date: December 15, 2010